

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

418I0468

## SENATE BILL NO. 83

Introduced by: Senator Knudson and Representative Michels

1 FOR AN ACT ENTITLED, An Act to revise the definition of bad debts for purposes of  
2 calculating certain tax deductions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-45-30 be amended to read as follows:

5 10-45-30. For purposes of this chapter, a bad debt is any portion of the purchase price of a  
6 transaction that a seller has reported as taxable and for which the seller or any party related to  
7 the seller within the meaning of section 267 or 707 of the Internal Revenue Code (related party),  
8 as of January 1, 2003, or any disregarded entity for federal income tax purposes that is owned  
9 by the seller or a related party, legally claims as a bad debt deduction for federal income tax  
10 purposes. In computing the amount of tax due, a seller may deduct bad debts from the total  
11 amount upon which the tax is calculated for any return. Any deduction taken or refund paid  
12 which is attributed to bad debts may not include interest. Bad debts include worthless checks,  
13 worthless credit card payments, and uncollectible credit accounts. Bad debts do not include  
14 financing charges or interest, sales or use taxes charged on the purchase price, uncollectible  
15 amounts on property that remain in the possession of the seller until the full purchase price is  
16 paid, expenses incurred in attempting to collect any debt, debts sold, or assigned to unrelated



1 third parties for collection, and repossessed property. No bad debt deduction may be claimed by  
2 any person that has purchased accounts receivable for collection unless the person is a successor  
3 that has acquired the entire business of the seller that incurred the bad debt, the person is a  
4 related party, or the person is a disregarded entity for federal income tax purposes that is owned  
5 by the seller or a related party.

6 Bad debts shall be deducted within twelve months following the month in which the bad debt  
7 has been charged off for federal income tax purposes. If a deduction is taken for a bad debt and  
8 the seller subsequently collects the debt in whole or in part, the tax on the amount so collected  
9 shall be paid and reported on the next return due after the collection.

10 Notwithstanding the provisions of § 10-59-22, a seller may obtain a refund of tax on any  
11 amount of bad debt that exceeds the amount of taxable sales within the twelve-month period  
12 defined by that bad debt. A refund under this section may not include interest.

13 If a seller's filing responsibilities have been assumed by a certified service provider as defined  
14 in § 10-45C-1, the service provider may claim, on behalf of the seller, any bad debt allowance  
15 provided by this section. The service provider shall credit or refund the full amount of any bad  
16 debt allowance or refund received to the seller.